

REMARKS

A. Introduction

This paper is submitted in response to the Office Action mailed September 18, 2008. A Request for a Three Month Extension of Time under 37 CFR 1.136(a) is submitted herewith, along with the fee prescribed by 37 CFR 1.17(a)(3). The response is therefore timely.

Applicant respectfully requests reconsideration and allowance of this application. Claims 1-7 are pending in the application. Applicant respectfully disagrees with the Examiner's reasons for rejecting Claims 1-7. Nevertheless, Applicant has amended Claims 1, 2, 6 and 7. Applicant's amendments have been made for the purpose of expediting further prosecution, and do not in any way indicate Applicant's agreement with the rationale behind the Examiner's rejections. Applicant reserves the right to pursue the original claims, and other claims, in continuing applications.

Applicant submits that this application is now in condition for allowance, and Applicant earnestly requests such action. Below, Applicant addresses each of the Examiner's reasons for rejection.

B. All Claims are Patentable Over the Cited References Kaiserreiner – § 102 Rejections

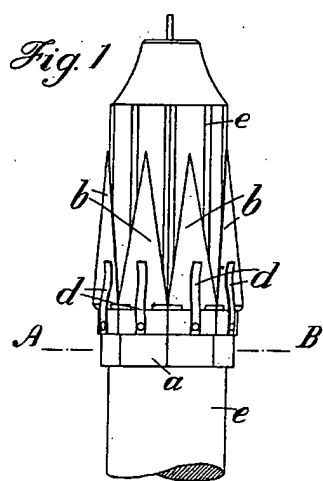
The Examiner rejected Claims 1 and 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 842,463 to Kaiserreiner. Applicant respectfully disagrees with the substance of these rejections. Nevertheless, Applicant has amended Claim 1 in order to expedite further prosecution, as discussed above. Applicant respectfully submits that Claims 1 and 6 are allowable over Kaiserreiner.

An anticipation rejection under § 102 requires that "every element of the claimed invention must be identically shown in a single reference." *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990). "There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991).

Various preferred embodiments of the present application define, *inter alia*, a candle extinguisher comprising a unitary body of a thin-plate material. The thin-plate material is non-combustible or non-inflammable when exposed to the burning flame of a candle. The body has a ring-shaped part defining an inner space of the candle extinguisher and having an inner diameter

at least slightly exceeding the outer diameter of a candle on which the candle extinguisher is to be positioned. The body has a plurality of flexible finger elements extending upwardly from the ring-shaped part. Each of the flexible finger elements is integral with the ring-shaped part to form therewith a single, unitary piece. Each of the flexible finger elements comprises a proximal part adjoining the ring-shaped part and a distal part spaced from the ring-shaped part. The proximal parts extend substantially in coplanar relationship with the ring-shaped part and are bendable from the coplanar relation outwardly relative to the inner space defined by the ring-shaped part. Each of the distal parts is bent substantially perpendicularly relative to a respective proximal part and extends inwardly relative to the inner space defined by the ring-shaped part. Each of the distal parts has a length at least exceeding one half of the width of the inner space defined by the ring-shaped part.

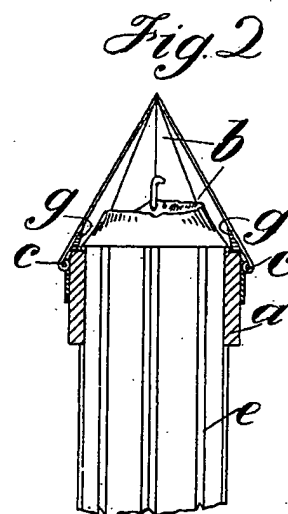
By contrast, Kaiserreiner discloses a candle extinguisher having extinguishing wings that are under spring pressure and close above the candle flame. With reference to Figures 1 and 2,



Kaiserreiner includes a metal ring *a* adapted to be mounted on a candle *e*. Extinguishing wings *b* are connected to the ring *a* by hinges *c* and are under the influence of springs *d*. The extinguisher is mounted to a candle as illustrated in Figure 1. When the candle burns to the point that it no longer opposes the spring force tending to close the extinguishing wings *b*, the wings close to form an airtight enclosure (Figure 2), thereby

starving the flame of oxygen and extinguishing the flame.

Kaiserreiner does not disclose or suggest at least a body comprising a ring-shaped part and a plurality of flexible finger elements extending upwardly from the ring-shaped part, wherein each of the flexible finger elements is integral with the ring-shaped part to form therewith a single, unitary piece, as recited in Claim 1. Instead, in Kaiserreiner the extinguishing wings *b* are connected to the ring *a* by the hinges *c*. This multi-piece configuration is shown clearly in the cross-sectional view of Figure 2.



Kaiserreiner also does not disclose or suggest at least flexible finger elements comprising a proximal part adjoining the ring-shaped part and a distal part spaced from the ring-shaped part, wherein each of the distal parts is bent substantially perpendicularly relative to a respective proximal part and extends inwardly relative to the inner space defined by the ring-shaped part, and further wherein each of the distal parts has a length at least exceeding one half of the width of the inner space defined by the ring-shaped part, as recited in Claim 1. Instead, in Kaiserreiner the extinguishing wings *b* are planar. They do not include proximal and distal parts bent substantially perpendicularly relative to one another. They further do not include distal parts having a length at least exceeding one half of the width of the inner space defined by the ring-shaped part.

Since Kaiserreiner does not disclose or suggest at least the limitations of Claim 1 recited above, Applicant respectfully submits that independent Claim 1 is allowable over Kaiserreiner. Dependent Claim 6, which includes the features of independent Claim 1, recites additional features of particular advantage and utility. Moreover, Claim 6 is allowable for substantially the same reasons presented above. Kaiserreiner does not disclose or suggest all of the limitations of Claim 1, let alone the unique combination of features recited by Claim 6. Accordingly, Applicant respectfully requests that the Examiner withdraw these rejections.

Kaiserreiner – § 103 Rejections

The Examiner rejected Claims 2 and 7 under 35 U.S.C. § 103(a) as being unpatentable over Kaiserreiner. Applicant respectfully submits that these claims are allowable over Kaiserreiner.

Claims 2 and 7 depend from independent Claim 1, and therefore include all the features of Claim 1. Claims 2 and 7 are thus allowable over Kaiserreiner for substantially the same reasons presented above with respect to Claim 1, and on their own merit. Accordingly, Applicant respectfully requests that the Examiner withdraw these rejections.

Claim 7 is also allowable over Kaiserreiner for at least one further reason. Claim 7 recites a method of producing a candle extinguisher including cutting a blank from a thin-plate material, said blank including a bottom shape part constituting a web of said thin-plate material and a plurality of flexible finger elements extending to one side from said web, each of said flexible finger elements being integral with the web to form therewith a single, unitary piece,

each of said flexible finger elements further including inner parts and outer parts, turning said blank into a cylindrical body having said web constituting said ring-shaped part and having said inner parts constituting said proximal parts and said outer parts constituting said distal parts, and bending said distal parts perpendicularly relative to said proximal parts.

As discussed above with respect to Claim 1, Kaiserreiner does not disclose or suggest at least a body comprising a ring-shaped part and a plurality of flexible finger elements extending upwardly from the ring-shaped part, wherein each of the flexible finger elements is integral with the ring-shaped part to form therewith a single, unitary piece. As also discussed above with respect to Claim 1, Kaiserreiner does not disclose or suggest at least flexible finger elements comprising a proximal part and a distal part, wherein each of the distal parts is bent substantially perpendicularly relative to a respective proximal part. Since Kaiserreiner does not disclose or suggest these structural features, it cannot possibly disclose or suggest a method of producing these structural features.

Since Kaiserreiner does not teach or suggest a method of producing the structural features of recited in Claim 7, Applicant respectfully submits that independent Claim 7 is allowable over Kaiserreiner. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Kaiserreiner in view of Petersson

The Examiner rejected Claims 3-5 under 35 U.S.C. § 103(a) as being unpatentable over Kaiserreiner in view of U.S. Patent No. D241,465 to Petersson. Each of claims 3-5 depends from Claim 1, and therefore includes all of the limitations of Claim 1. Claim 1 is allowable over Kaiserreiner for the reasons provided above. Claim 1 is also allowable over Kaiserreiner in view of Petersson, because Petersson neither teaches nor suggests the limitations of Claim 1 that are lacking in Kaiserreiner. In particular, the Examiner cited Petersson because he alleges that Petersson teaches “the proximal parts having a length at least approximately 2 times the length of said distal parts ... wherein proximal part has a rectangular configuration, the width of the proximal part is one-half the length of the proximal part ... and the distal part having the shape of an isosceles triangle, wherein the base line of which is congruent with the outermost end of the respective proximal part.” The limited purposes for which the Examiner cited Petersson are irrelevant to the deficiencies in Kaiserreiner that are discussed above with respect to Claim 1.

Accordingly, Claims 3-5 are all allowable for at least the same reasons provided above with respect to Claim 1, and Applicant respectfully requests that the Examiner withdraw these rejections.

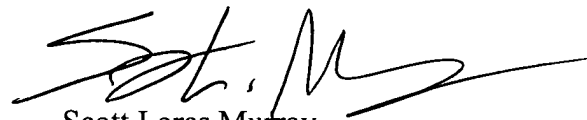
CONCLUSION

For the reasons presented above, Applicant respectfully submits that this application, as amended, is in condition for allowance. If there is any further hindrance to allowance of the pending claims, Applicant invites the Examiner to contact the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1159.

Date: March 18, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott Loras Murray', with a long horizontal flourish extending to the right.

Scott Loras Murray

Reg. No.: 53,360

Attorney for Applicant

Tel.: (949) 955-1920